

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	R. DUTTA	Examiner	Philip C. Lee
Serial No.	09/726,268	Group Art Unit	2152
Filed	November 30, 2000	Docket No.	AUS920000344US1
TITLE	METHOD, SYSTEM, AND PROGRAM FOR PROVIDING ACCESS TIME INFORMATION WHEN DISPLAYING NETWORK ADDRESSES		

CERTIFICATE UNDER 37 CFR 1.8:

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/David Victor/

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REPLY BRIEF

This Reply Brief is submitted in response to the Examiner Answer submitted on November 30, 2006.

1. Claims 1, 3, 7, 12, 13, 15, 19, 24, 25, 27, 31, and 36

Claims 1, 3, 7, 12, 13, 15, 19, 24, 25, 27, 31, and 36 are rejected under 35 U.S.C. §102(a) as being unpatentable over IBM Research Disclosure No. 438161 ("Research Disclosure").

With respect to claims 1, 13, and 25, the Examiner argued that Research Disclosure's discussion of displaying a time value for a URL link discloses the claim requirements of an access time indicator for the network addresses based on the determined times stored with the network addresses, where the determined access time indicator is capable of indicating at least two different access times with respect to one network address. (Examiner Answer, pg. 15)

The cited paras. 2 and 3 of Research Disclosure discuss displaying the last time value to download the page or a running average of download times in the personal bookmarks of the user or with the network address when the user uses "Back" or "Forward" buttons to skip to a previously visited web location. In the Reply, the Examiner found that Research Disclosure's display of the time to download the last page and the "running average" each independently disclose the claimed "access time indicator" and "access times" because the displayed download time can be different time values based on the performance at the web site. (Examiner Answer, pg. 15).

Applicants submit that this Examiner interpretation is incorrect because the “access time indicator” and “access times” are not identical and, thus, cannot be disclosed by the same cited element in Research Disclosure, i.e., the time to download the last page or a running average of the page download times. Applicants submit that the “access time indicator” is not the same as the “access times” because the claims require that the “access time indicator” “indicates at least two different access times”.

The U.S. Court of Appeals for the Federal Circuit (“Federal “Circuit”) has found that “the use of both terms in close proximity in the same claim gives rise to an inference that a different meaning should be assigned to each”. Bancorp Servs., L.L.C. v. Hartford Life Ins. Co., 69 U.S.P.Q.2D (BNA) 1996, 2000 (Fed. Cir. 1994). In another case, the Federal Circuit found that:

“[i]f the terms "pusher assembly" and "pusher bar" described a single element, one would expect the claim to consistently refer to this element as either a "pusher bar" or a "pusher assembly," but not both, especially not within the same clause. Therefore, in our view, the plain meaning of the claim will not bear a reading that "pusher assembly" and "pusher bar" are synonyms.

Ethicon Endo-Surgery v. United States Surgical Corp., 40 U.S.P.Q.2D (BNA) 1019, 1024 (Fed. Cir. 1996).

The principle of these Federal Circuit cases supports an interpretation of “access time indicator” to mean something different than “the at least two access times”. Moreover, Applicants submit that this principle of claim interpretation is supported by both the use of the terms “access time indicator” and “access times” in the claim language and the Specification.

The claim language recites that the “access time indicator” is capable of indicating “at least two different access times”. Applicants submit that an “access time indicator” cannot be identical to one of the “at least two access times” otherwise the claimed “access time indicator” could not indicate “at least two different access times” at the same time for one network address.

The Specification discloses that the browser “may maintain colors corresponding to different ranges of access time ratings.” (Specification, pg. 8, lines 8-10, pg. 10, lines 8-12). The “access time rating 58 indicates whether the expected access time 56 is slow, fast or average relative to other access times.” (Specification, pg. 7, lines 13-14). According to the Specification, “different colors connote[] different relative expected access times”. (Specification, pg. 11, lines 14-16) Thus, the disclosed color, which is an embodiment of an

“access time indicator”, provides an indication that corresponds to different ranges of “access times”.

The Examiner appears to be taking the position that because the calculated “running average” or last download time can be one of multiple values they are capable of indicating at least two different values, i.e., access times. (Examiner Answer, pg. 15) Applicants traverse this interpretation because the requirement that the “access time indicator” indicate at least two different access times means that the access time indicator indicates at two different access times at once, not that they are capable of being just one of two values as the Examiner argues. In the cited Research Disclosure, the calculated running average and last download time can only be one value at a time, their actual calculated value and do not indicate “at least two different access times”.

Yet further, under proper claim interpretation, the “access time indicator” element is not identical to the “access times” being indicated. In the Examiner Answer, the Examiner finds that the running average and last download time of Research Disclosure can equal one of two different access times. (Examiner Answer, pg. 15) Thus, according to the Examiner’s interpretation, the last download time and the running average are identical to one of the access times. Applicants submit, for the above discussed reasons, that this interpretation is incorrect because an “access time indicator” is not identical to one of the “access times” as the “access time indicator” indicates at least two access times and because they are different elements in the same claim. Thus, the cited running average and last download time of Research Disclosure do not disclose or satisfy the claimed “access time indicator”.

Accordingly, Applicants request the Board overturn the rejection of claims 1, 13, and 25 because the cited Research Disclosure does not disclose all the requirements of these claims.

Applicants submit that claims 3, 7, 12, 15, 19, 24, 27, 31, and 36 are patentable over the cited art because they depend from one of claims 1, 13, and 25.

2. Claims 4,6, 16, 18, 28, and 30

Claims 4, 16, 18, 28, and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Research Disclosure in view of Barrett (U.S. Patent No. 5,727,129).

a. Claims 4, 16, and 28

Claims 4, 16, and 28 depend from claims 1, 13, and 25 and further require that the output device comprises a display monitor, wherein rendering the network address comprises displaying the network address on a display monitor and wherein rendering the access time indicator comprises altering the display of the network address on the display monitor.

In the Examiner Answer, the Examiner found that changing the order of a display of network addresses, as mentioned in the cited Barrett, satisfies the claim requirement of altering the display of the network address on the display monitor. (Examiner Answer, pg. 16)

Applicants submit the cited Barrett's mention of sorting an order of URLs does not satisfy the claim requirement of alerting the display of the network address. Barrett mentions altering the order in which URLs are displayed, but does not teach altering the display of the network address itself as claimed. As discussed, the Specification discloses an access time indicator embodiment that is rendered by displaying the URL address in different colors, which comprises an alternation of the network address itself, not just an order in which it is displayed in a list. (Specification, pg. 10, lines 5-15 and pg. 11, lines 4-14) Thus, in view of the Specification, "altering the display of the network address" comprises altering the display of the address itself, and not just where it is positioned on the display.

Applicants submit that the Examiner has not cited any part of Barrett that teaches or suggests altering the display of the network address by altering or changing the network address itself, nor performing the altering as part of rendering an access time indicator as claimed. Instead, the cited Barrett discusses altering the order in which URLs are displayed based on the number of previous visits to the page.

In the Answer, the Examiner stated that Applicants argued there is no suggestion to combine the references. (Examiner Answer, pg. 16) Applicants traverse this characterization because even if one combines the references, the proposed combination does not teach the claim requirements of rendering an access time indicator by altering the display of the network address. Instead, the cited Barrett mentions displaying URLs previously accessed from a current page in an order based on the number of previous visits to the list of previously accessed pages. Thus, the Examiner is proposing a modification of Research Disclosure not taught in either cited reference.

Accordingly, Applicants request the Board to reverse the rejection of claims 4, 16, and 28.

b. Claims 6, 18, and 30

Claims 6, 18, and 30, depend from claims 1, 13, and 25, and further require that the output device comprises a display monitor, wherein the file accessed from the network address comprises a page to display on the display monitor, and wherein the network address to render comprises a network address included in the page to display within the displayed page.

The claims require rendering the access time indicator for network addresses included in a page to display. The cited Barrett discusses a display of a web visitation history, where a presently visited URL is displayed as well as past or future generated pages. Applicants submit that displaying a web visitation history does not teach or suggest the claim requirements concerning rendering access time indicators included in a page to display, where the page is downloaded from a network address over a network, as claimed in the base claims 1, 13, and 25.

The cited Barrett concerns displaying a page of information on a current displayed page and previously visited pages as shown in FIG. 6 of Barrett. Barrett concerns displaying information on statistics concerning web browsing. (Barrett, col. 7, line 35 to col. 8, line 33). Barrett does not teach or suggest displaying a page downloaded from a network that includes network addresses and then rendering access time indicators for a network address included in such page.

In the Answer, the Examiner characterized Applicants as arguing there is no suggestion to combine the references. (Examiner Answer, pg. 17) Again, Applicants submit that the proposed combination does not teach or suggest the claim requirements and the Examiner's finding requires modifications of both references that are not taught or suggested in the cited combination.

3. Claims 5, 9, 17, 21, 29 and 33

Claims 5, 9, 17, 21, 29, and 33 are rejected under 35 U.S.C. §103 as being unpatentable over Research Disclosure, Barrett, and Barrick (U.S. Patent No. 6,625,647).

a. Claims 5, 17, and 29

Claims 5, 17, and 29 depend from claims 4, 16, and 28 and further require that the access time indicator comprises a color in which to display the network address on the display monitor.

The Examiner cited col. 8, lines 7-17 of Barrick as teaching the additional requirements of these claims. (Examiner Answer, pg. 18).

Although the cited Barrick discusses associating colors with different download performance levels, nowhere does the cited Barrick, or other references, teach or suggest altering the display of the network address by displaying the network address in a color, such that the color provides an access time indicator. Instead, the cited Barrick concerns providing a qualitative assessment of the download performance for a page and that this information may be conveyed as information relative to an absolute scale, such as a color.

In the Answer, the Examiner characterized Applicants as arguing there is no suggestion to combine the references. (Examiner Answer, pg. 18) Applicants submits that even if one were to combine the references, the proposed combination does not teach or suggest the claim requirements. The proposed combination would have the web browser of Research Disclosure, which provides download time information with URL access history, to also have the capability to provide a qualitative assessment of the download performance, such as in a color. However, this combination still does not teach rendering the access time indicator, or qualitative assessment, by displaying the network address in a particular color to render the access time indicator.

Accordingly, Applicants request the Board to reverse the rejection of claims 5, 17, and 29.

b. Claims 9, 21, and 33

Claims 9, 21, and 33 depend from claims 6, 18, and 30 and further require that generating the list of previously accessed network addresses with access time ratings comprises: calculating an expected access time from the stored determined times for each network address and determining an access time rating from the expected access time, wherein the access time indicators are determined for network addresses from the access time ratings for the network addresses.

In the list of Applicant's arguments the Examiner listed on pgs. 12-13 of the Examiner Answer, the Examiner did not list the arguments the Applicants presented for claims 9, 21, and 33, nor did the Examiner appear to present an answer to Applicants arguments with respect to these claims.

The cited Barrick mentions that instead of sending a download time, sending a qualitative assessment of a download time relative to an absolute scale as part of an agent sending a performance report. Although the cited col. 8 of Barrick discusses determining a rating or assessment of a download time, nowhere does the cited col. 8 anywhere teach or suggest the claim requirements concerning calculating an expected access time, which is different from the cited qualitative assessment, and then determining an access time rating from an expected access time.

Accordingly, Applicants request the Board to reverse the rejection of claims 9, 21, and 33.

4. Claims 10, 22, and 34

Claims 10, 22, and 34 are rejected under 35 U.S.C. §103 as being unpatentable over Research Disclosure and Killian (U.S. Patent No. 6,438,592).

Claims 10, 22, and 34 depend from claims 6, 18, and 30 and further require that the page is implemented in a markup-language including tagged elements, and require: generating a document object including nodes for the tagged elements; generating a node for each network address included in the page; and generating an attribute for each network address node implementing the access time indicator determined from the network address, wherein the page is rendered from the document object.

In the Answer, the Examiner found that the claims do "not claim the generated node in a document object is for each network address (i.e., applicant does not claim "a node" for each network address is the same as "nodes" for the tagged elements included in a document object)". (Examiner Answer, pg. 22).

Applicants transverse the Examiner's finding that the claims do not claim that the generated node is for each network address because the claims recite "generating a node for each network address included in the page".

In the Answer, the Examiner continued to cite col. 12, lines 54-62 of Killian as teaching the additional requirements of these claims. (Examiner Answer, pg. 22). The cited col. 12 mentions that a web page is a composite data object in the sense that it has images that cause image objects to be downloaded to be displayed as part of the web page.

Applicants submit that the Examiner has not cited any part of Killian (or other references) that teaches or suggests the express claim requirements of a page comprising a document object having nodes for each network address where each network address node has an attribute providing the access time indicator for the network address node. The cited col. 12 does not teach or suggest that a web page is composite data object having a node for each network address and an attribute for each network address node.

For all the above reasons, Applicants request the Examiner to overturn the rejection of all pending claims 1, 3-7, 9-13, 15-19, 21-25, 27-31, and 33-36.

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